UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

| JOE RICHARD "TREY" POOL, III, | § | |
|--|---|------------------------------|
| TRENTON DONN "TRENT" POOL, | § | |
| And, ACCELEVATE2020, LLC, | § | |
| | § | |
| Plaintiffs | § | |
| | § | |
| v. | § | Civil Case No. 4:19-cv-02236 |
| | § | |
| CITY OF HOUSTON, and, ANNA | § | |
| RUSSELL, in her official capacity as the | § | |
| City Secretary of the City of Houston, | § | |
| | § | |
| Defendants. | § | |
| | | |

PLAINTIFFS' MOTION TO EXTEND DEADLINE FOR REPLY IN SUPPORT OF PLAINTIFFS' OPPOSED MOTION TO ALTER OR AMEND JUDGMENT

Pursuant to Fed. R. Civ. P. 6(b)(1)(B), Plaintiffs hereby move to extend the deadline for filing their reply in support of their Motion to Alter or Amend Judgment, which was due Monday, October 13, to Wednesday, October 9, 2019. Defendants were contacted after the close of business on Wednesday, October 9, 2019, and have not responded.

In this case Defendants filed their response to Plaintiffs motion on October 2, 2019. Plaintiffs' reply was due Monday, October 7. That deadline has passed and Plaintiffs seek two additional days, extending the deadline through and including today, Wednesday, October 9.

Under Fed. R. Civ. P. 6, courts have broad discretion to extend deadlines and may extend the time to file their motion for good cause if the party failed to act because of excusable neglect. *In re Neurology & Neurophysiology Associates, P.A.*, 628 Fed. Appx. 248, 251 (5th Cir. 2015). "In determining whether a party's neglect was excusable, a district court considers the following factors: (1) the possibility of prejudice to the other parties, (2) the length of the applicant's delay

and its impact on the proceeding, (3) the reason for the delay and whether it was within the control of the movant, and (4) whether the movant has acted in good faith. *Id* (internal quotations omitted).

Here, Counsel's cause for failing to file the reply on time was he did not re-review the Court's procedures when he began writing the reply. The reason for Counsel's delay was entirely within his control and was merely an oversight due to multiple overlapping motion deadlines in other litigation, and a good faith error. Counsel reviewed the Court's procedures prior to filing the complaint, but only rechecked the local rules when determining the due date for the reply and did not realize this Court places a shorter deadline on reply briefs than the local rules. As the final brief filed on this motion, it is Counsel's belief that Defendants would not suffer prejudice in allowing Plaintiffs to file this reply, which is only two days late.

Counsel understands that failing to file the reply on time was neglect, but as three of the four factors for evaluating his neglect weigh in favor of it being excusable, the interest of justice would be served by this Court granting the extension.

Conclusion

For the above reasons, Plaintiffs respectfully ask this Court to GRANT the Motion and extend the response deadline through and including Wednesday, October 9, 2019.

Respectfully submitted,

/s/ Austin Whatley

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Counsel for Plaintiffs

CERTIFICATE OF CONFERENCE

Plaintiffs' counsel conferred with Defense counsel Suzanne R. Chauvin and Judith L. Ramsey by email, but did not receive a response.

/s/ Austin Whatley
Austin Whatley

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on October 9, 2019, the foregoing document, and any accompanying exhibits, was served by CM/ECF as follows:

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/s/ Austin Whatley
Austin Whatley